-

THE HON'BLE SRI JUSTICE G.BIKSHAPATHY

AND

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO.8559 of 1999

ORAL ORDER: (per G.B. J.,)

The Writ Petition is filed challenging the order passed by the learned Central Administrative Tribunal (for short Tribunal) in O.A.No.743 of 1996, dated 18-9-1998.

The petitioner was working as Deputy Stores Superintendent at the relevant time. He was issued with a charge memo containing the following three charges:

> "1. Draw Bar Hooks and Screw Couplings were stated to be missing on the Stock Sheet which work out to Rs.6,07,809/-. As a custodian of the RC fittings, he failed to lodge a theft report on the missing items.
> 2. He failed to establish either drawal items like Laminated Bearing Springs, Buffer Casing, Buffer Plungers, Draft Casting and Doors with Hingers by Shops or disposal to Scrap Depot at RYP on DS-8 which resulted in a net shortage of Rs.7,69,426/-.
> 3. Though a Survey Committee was appointed by Dy.DME on 15.9.1990 to go into the details of the discrepancies, he failed to initiate action and exhibited gross negligence of his duties".

Thereafter an enquiry was conducted and ultimately he was found guilty of charges 1 and 2. The disciplinary authority imposed the punishment of removal from service. However, on appeal, the appellate authority held that the punishment of removal is too harsh and modified the penalty of removal to that of reduction to lower grade i.e., from Rs.2000-3200 (RSRP) to Rs.1600-2660 (RSRP) on pay Rs.2480/- for a period of 2 years (Recurring). Against the said order, the petitioner filed the above O.A. The learned Tribunal after considering the matter upheld the order

passed by the appellate authority and dismissed the said O.A., against the said order, the present Writ Petition has been filed.

The learned counsel for the petitioner submits that the order of the Tribunal confirming the order of the appellate authority is wholly illegal and contrary to law. He also submits that the findings of the disciplinary authority that the charges 1 and 2 were held to be proved against the petitioner are not borne out by any record. In view of this, the Tribunal ought to have dropped the charges against the petitioner. We have also heard the learned Standing Counsel for the Railways.

We are afraid we cannot appreciate the contentions raised by the learned counsel for the petitioner sitting under Article 226 of the Constitution of India. The disciplinary authority and also the appellate authority have concurrently found that the charges 1 and 2 have been proved. Therefore, it would not be appropriate either for the Tribunal or for this Court to re-appreciate the matter again and come to a different conclusion. In view of this situation, we are not inclined to interfere with the order passed by the Tribunal.

In the result, the Writ Petition is dismissed. No costs.

(G.BIKSHAPATHY, J.,

1st September, 2003.

(GOPALA KRISHNA TAMADA, J.,)

SSR
Copy in one week.
(BO)